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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,915	01/15/2002	Peter K. Lyons	23452-150	5007

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EXAMINER
BULLOCK JR, LEWIS ALEXANDER

ART UNIT	PAPER NUMBER
2195	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
	10/044,915	LYONS, PETER K.
Office Action Summary	Examiner	Art Unit	
	Lewis A. Bullock, Jr.	2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____ .

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-14_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-14_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on _15 January 2002_ is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All · b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____ .

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

DETAILED ACTION

Drawings

1.   New corrected drawings in compliance with 37 CFR 1.121(d) are required in this

application because of Draftperson's Review. Applicant is advised to employ the

services of a competent patent draftsperson outside the Office, as the U.S. Patent and

Trademark Office no longer prepares new drawings. The corrected drawings are

required in reply to the Office action to avoid abandonment of the application. The

requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over

FLETCHER (U.S. Patent 6,009,274).

As to claim 1, FLETCHER teaches a system for enabling updates to applications

on a running application server (ASU agent via an ASU server) without requiring a

server restart (col. 5, lines 44-49), the system comprising: an application server (ASU

agent via an ASU server / ASU server via an ASU manager); a deployer that

coordinates an update to the application (application / software) with the application

server, the deployer further comprising: a configuration file (self-extracting compressed

file / control file) that assigns a priority (version number / version indication) to the

update and pushes the update to the application server based, at least in part, upon the

assigned priority (downloading the software whether the version is new or old) (col. 9,

lines 20-29; col. 9, lines 57 – col. 10, line 17; col. 10, lines 19-51; col. 11, lines 1-6; col.

12, lines 27-56; abstract). However, FLETCHER does not teach that the application

server services an application for one or more clients when the application server is the

ASU agent. Official Notice is taken in that any computer system is capable of sending a

request, i.e. an request to execute a program, to another computer system. Therefore,

it would be obvious to one skilled in the art at the time of the invention that the ASU

agent is capable of handling other clients' request such that communications between

computing systems is achieved.

As to claim 2, FLETCHER teaches a duplicate application storage space (one or

more special update directories) that communicates with the deployer, wherein the

update to the application is first performed on the duplicate application storage space

(col. 12, lines 58-62).

As to claim 3, FLETCHER teaches a method for updating an application

(application / component) on an application server (ASU agent via an ASU) wherein the

update to the application is accomplished without the need for an application server

restart (col. 5, lines 44-49), the method comprising: polling a storage location (list of

components) with a deployer to notice the presence of an update (col. 12, lines 33-35;

col. 10, lines 6-12), and when an update is noticed; signaling an application server that

the update is present (via sending an advertisement of the new version / requesting the

version level from the ASU Agent); determining a priority (version) for the update;

deciding whether to proceed with the update based, at least in part on the priority

(version) for the update, and if the decision is to proceed; adjusting the application so

that the update may proceed; updating the application; and signaling the application

server when the update is complete (via if the application update is a newer version,

download it into the special update directories, changing the registry path to the update

directories and sending a message to be displayed on the ASU agent) (col. 9, lines 20-

29; col. 10, lines 19-67; col. 11, lines 1-6; col. 11, lines 47-62; col. 12, lines 57-64; col.

13, lines 16-39). However, FLETCHER does not teach that the application server

services an application for one or more clients when the application server is the ASU

agent. Official Notice is taken in that any computer system is capable of sending a

request, i.e. an request to execute a program, to another computer system. Therefore,

it would be obvious to one skilled in the art at the time of the invention that the ASU

agent is capable of handling other clients' request such that communications between

computing systems is achieved.

As to claim 4, FLETCHER teaches the step of determining a priority for the

update comprises: reading the priority (version) assigned to the update by the deployer

(col. 10, lines 19-41). It would be obvious to one skilled in the art at the time of the

invention that the version level is based on a number of well-known configurations, i.e. the creation date, the deployment date, etc.

As to claim 5, FLETCHER teaches a deployer (ASU server) that coordinates an update to an application (application / component) running on an application server (ASU agent via an ASU server), the deployer comprising: a configuration file (self-extracting compressed file / control file) that assigns a priority (version level) to the update and pushes the update to the application server based, at least in part, upon the assigned priority (via if the application update is a newer version, download it into the special update directories, changing the registry path to the update directories and sending a message to be displayed on the ASU agent) (col. 9, lines 20-29; col. 10, lines 19-67; col. 11, lines 1-6; col. 11, lines 47-62; col. 12, lines 57-64; col. 13, lines 16-39). However, FLETCHER does not teach that the application server services an application for one or more clients when the application server is the ASU agent. Official Notice is taken in that any computer system is capable of sending a request, i.e. an request to execute a program, to another computer system. Therefore, it would be obvious to one skilled in the art at the time of the invention that the ASU agent is capable of handling other clients' request such that communications between computing systems is achieved.

As to claim 6, FLETCHER teaches a poller to poll a storage location (list of components) and determine whether the modified application files exists (via server

receives updated files from manager to push to the agent based on whether the component is new or not) (col. 12, lines 33-35; col. 10, lines 6-12).

As to claim 7, FLETCHER teaches a signaler to signal the application server when the update is complete (via if the application update is a newer version, download it into the special update directories, changing the registry path to the update directories and sending a message to be displayed on the ASU agent) (col. 9, lines 20-29; col. 10, lines 19-67; col. 11, lines 1-6; col. 11, lines 47-62; col. 12, lines 57-64; col. 13, lines 16-39).

As to claims 8 and 9, refer to claims 1 and 2 for rejection.

As to claims 10 and 11, reference is made to a processor readable medium that corresponds to the method of claims 3 and 4 and is therefore met by the rejection of claims 3 and 4 above.

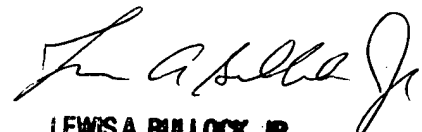As to claims 12-14, refer to claims 5-7 for rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lewis A. Bullock, Jr. whose telephone number is (571) 272-3759. The examiner can normally be reached on Monday-Friday, 8:30 - 5:00.

   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng An can be reached on (571) 272-3756. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

May 2, 2005

LEWIS A. BULLOCK, JR.
PRIMARY EXAMINER